

SENATE JOINT RESOLUTION 103

By Massey

A RESOLUTION proposing an amendment to Article III, Section 12 of the Constitution of Tennessee, relative to the exercise of the powers and duties of the Governor during disability.

BE IT RESOLVED BY THE SENATE OF THE ONE HUNDREDTH EIGHTH GENERAL ASSEMBLY OF THE STATE OF TENNESSEE, THE HOUSE OF REPRESENTATIVES CONCURRING, that a majority of all the members elected to each house concurring, as shown by the yeas and nays entered on their journals, that it is proposed:

That Article III, Section 12 of the Constitution of Tennessee be amended by adding the following language immediately following the current language in the Section:

Whenever the Governor transmits to the Secretary of State, the Speaker of the Senate, and the Speaker of the House, a written declaration that the Governor is unable to perform the powers and duties of the office, the powers and duties of the office of Governor shall be exercised by, after confirmation by the General Assembly, the Deputy Governor, or, if that office is unoccupied, a member of the Governor's cabinet as designated by the Governor in writing. The powers and duties of the office shall return to the Governor when the Governor transmits to the same officials, a written declaration that the Governor is able to perform the powers and duties of the office.

The Deputy Governor or the Governor's designated cabinet member shall be confirmed by a two-thirds vote of all members elected to each house of the General Assembly that the Deputy Governor or the Governor's designated cabinet member is of adequate standing to assume the role of Governor, should the transfer of powers be necessary.

Whenever the Attorney General and Reporter, after consultation with the Secretary of State, Comptroller of the Treasury, and Treasurer is of the opinion that the Governor is unable to perform the powers and duties of the office, the Attorney General and Reporter shall file a petition with the Tennessee Supreme Court seeking a declaration that the Governor is unable to perform the powers and duties of the office. The Supreme Court shall have original jurisdiction to hear the petition, and, upon a decision by the Supreme Court that the Governor is unable to perform the powers and duties of the office, those powers and duties shall be exercised by the Deputy Governor, or, if that office is unoccupied, the designated member of the Governor's cabinet, as confirmed by a two-thirds vote of all members elected to each house of the General Assembly. The Governor may, at any time, petition the Supreme Court to determine that the inability to perform the powers and duties of the office no longer exists. Upon such a determination by the Supreme Court, the powers and duties of the office shall return to the Governor.

If thirty days or more have passed since the Supreme Court's determination that the Governor is incapable of performing the powers and duties of the office, and the Governor has not petitioned the Supreme Court for reinstatement, then the Secretary of State, Comptroller of the Treasury, and Treasurer shall determine whether the Governor's inability to perform the powers and duties of the office will remain for the rest of the unexpired term. If the Secretary of State, Comptroller of the Treasury, and Treasurer each determine that the Governor's inability to perform the duties of office is of a permanent nature, then the powers and duties of the office shall devolve to the Speaker of the Senate, as they would with removal, death, or resignation of the Governor. If the Secretary of State, Comptroller of the Treasury, and Treasurer determine that the Governor will be able to perform the duties of the office before the end of the Governor's unexpired term, then the Deputy Governor or the Governor's

cabinet member confirmed by a two-thirds vote of the General Assembly shall continue to perform the duties of the office.

During the pendency of the Governor's inability to perform the powers and duties of the office, the Governor shall retain the salary and benefits attached to the office and the person performing the powers and duties of the office shall receive the same salary and benefits received by the Governor.

BE IT FURTHER RESOLVED, that the foregoing be referred to the One Hundred Ninth General Assembly and that this resolution proposing such amendment be published in accordance with Article XI, Section 3 of the Constitution of the State of Tennessee.

BE IT FURTHER RESOLVED, that the clerk of the Senate is directed to deliver a copy of this resolution to the Secretary of State.